UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,597	07/30/2003	Beatrice Martin	Q76502	6211

23373 7590 01/08/2009

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

EXAMINER	
IBRAHIM, MOHAMED	

ART UNIT	PAPER NUMBER
2444	

MAIL DATE	DELIVERY MODE
01/08/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/629,597
Filing Date: July 30, 2003
Appellant(s): MARTIN ET AL.

Mark E. Wallerson (Reg. No. 59043)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 09/24/2008 appealing from the Office action mailed 11/27/2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6937577	**Torikka et al.**	**08-2005**
6856787	**Karabinis**	**02-2005**

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-8 10-12, 14, and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Torikka et al (Torikka), U. S. Patent No. 6937577.

Regarding claim 1, Torikka discloses a data management device (see e.g. fig. 1 and col. 9 lines 32-54) for a communication installation including at least one base station having resources (see e.g. fig. 1 item 12, base station is shown) and at least one

terrestrial node connected to a core network and to said base station to control its resources via an interface (see e.g. fig. 1 item 14; base station controller is shown) which device includes control means adapted to be coupled to a traffic source and to said interface and adapted to take local control, on command, of at least a portion of said resources of said base station, instead of said node, to enable transfer of data between said traffic source and said base station (see e.g. fig. 1, abstract, col. 4 lines 42-52, col. 3 lines 7-12 and col. 4 lines 57-67; the system comprises of a base station (BS) which is arranged to communicate via interface and controlled by a Base Station Controller (BSC) which enables data transfer between the MSC and base station).

Regarding claim 2, Torikka discloses wherein said control means include at least a portion of a stack of protocols dedicated to management of said resources so as (see e.g. fig. 7; device rack): to manage the configuration of at least one portion of at least one cell managed by said base station and the associated resources, to control at least one portion of the configuration of data transport channels managed by said base station (see e.g. col. 3 lines 3-6 and 13-20; configuring the functionality of at least one node by modifying the software in at least one board unit of said node), to manage "resource" events generated by said base station and representative of the status of its resources (see e.g. col. 2 lines 17-29 and col. 3 lines 51-63; allocating resources to a node within the network), and to check that identical configuration information is held by said base station and said node (see e.g. col. 5 line 66-col. 6 line 4 and col. 8 lines 47-61).

Regarding claim 3, Torikka discloses wherein said control means include at least a portion of a stack of protocols dedicated to managing synchronization of channels under the control of said base station (see e.g. col. 4 line 57-col. 5 line 3).

Regarding claim 4, Torikka discloses wherein said portions of said stack of protocols dedicated to resource management and synchronization are chosen from a group comprising at least a portion of the Node B Application Part protocol, at least a portion of the Radio Resource Control protocol, at least a portion of the Frame Protocol, at least a portion of the Radio Link Control protocol, at least a portion of the Medium Access Control protocol, at least a portion of the Packet Data Convergence protocol, and at least a portion of the Broadcast/Multicast Control protocol (see e.g. fig. 2, fig. 8 and col. 8 lines 13-22, 39-46; the system provides the use of Medium Access Control, Packet Data, Radio resources and Radio Link).

Regarding claim 5, Torikka discloses wherein said control means include a filter module adapted to filter said traffic from said traffic source and said traffic from said node (see e.g. col. 8 lines 25-26; system provides the use of ALT board to prioritize the traffic).

Regarding claim 6, Torikka discloses wherein said control means are adapted: to send said base station a resource reservation request on receipt of a request to transmit traffic to at least one user equipment situated in a cell managed by said base station

and coming from said traffic source, to send said node a message indicating that said available resources are blocked on receipt of a response message generated by said base station indicating availability of resources, and to send a message to said base station to release said resources that have been used and a message to said node to tell it that said resources have been unblocked when said traffic from said traffic source is finished (see e.g. figs. 3 ,4 and 10, col. 1 line 63-col. 2 line 3, col. 3 lines 51-62, col. 47-65 and col. 10 lines 6-26; the system enables the send and receive of data from a node in the telecommunication network to the base station, via interface. The base station controller serves as the means and management device that enables the BS to send its resources to requesting node in the telecommunication).

Regarding claim 7, Torikka discloses wherein said control means include a message generator module adapted to send said node said messages indicating that resources have been blocked (see e.g. fig. 7 and col. 3 lines 21-32).

Regarding claim 8, Torikka discloses. The device claimed in claim 3 wherein, in an installation including means adapted to transmit data from said traffic source by radio, at first and second frequencies, respectively to user equipments situated in a cell managed by said base station and to said base station (see e.g. col. 2 line 65-col. 3 line 6; installation and modification of resources), said control means are adapted to calculate a transmission difference representative of the difference between the transmission times of said data at said first and second frequencies and to delay data

received and to be transmitted to said base station by an amount substantially equal to the calculated difference (see e.g. fig. 1 an col. 4 line 57-col. 5 line 8).

Regarding claim 10, Torikka discloses wherein said control means include a synchronization adaptor module adapted to calculate said transmission time differences between traffic from said traffic source and from said node (see e.g. col. 5 lines 47-65).

Regarding claim 11, Torikka discloses further including a module provided with a connection interface (see e.g. col. 3 lines 21-27; connection to ATM interface).

Regarding claim 12, Torikka discloses wherein said module is adapted to be connected to said base station via said connection interface (see e.g. col. 4 lines 57-62).

Regarding claim 14, Torikka discloses. The device claimed in claim 1, adapted to be installed in said base station (see e.g. col. 3 lines 3-6 and col. 7 lines 61-67).

Regarding claim 16, Torikka discloses a communication installation including at least one base station having resources and at least one terrestrial node connected to a first core network and to said base station to control its resources via an interface, which installation includes a device as claimed in any preceding claim (see e.g. col. 1 lines 22-

36).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 9,13, 15, 17-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Torikka in view of Karabinis, U. S. Patent No. 6856787.

Regarding claim 20, Torikka discloses the invention substantially as claimed. However Torikka does not explicitly discloses wherein said satellite access network includes at least one satellite gateway connected to a satellite node connected to a second core network and together therewith constituting said traffic source, at least one satellite terminal connected to one of said base stations and to said node, and at least one communication satellite adapted to exchange data by radio with said satellite gateway, with said satellite terminal, and with user equipments adapted to exchange data with said base station via said resources.

Karabinis teaches wherein said satellite access network includes at least one satellite gateway connected to a satellite node connected to a second core network and together therewith constituting said traffic source (see e.g. fig. 2, col. 2 lines 13-28 and col. 4 lines 11-20), at least one satellite terminal connected to one of said base stations and to

said node (see e.g. col. 4 lines 18-25), and at least one communication satellite adapted to exchange data by radio with said satellite gateway (see e.g. col. 4 lines 26-45), with said satellite terminal, and with user equipments adapted to exchange data with said base station via said resources (see e.g. col. 4 lines 46-65). At the time of the invention, it would have been obvious to include a satellite communication to the system of Torikka. Motivation for doing so would have been to widen the coverage area while enhancing reliability of virtually unaffected transmissions.

Regarding claim 9, Torikka-Karabinis disclose wherein said difference is a function of the dimensions of the coverage area of said satellite transmission means and/or said base station (see e.g. col. 7 line 62-col. 8 line 4). The same motivation utilized in the combination of claim 20, equally applies as well to claim 9.

Regarding claim 13, Torikka-Karabini disclose wherein said module is adapted to be connected via said connection interface to a satellite terminal coupled to said base station and to a satellite supplied by said traffic source (see e.g. col. 1 lines23-29). The same motivation utilized in the combination of claim 20, equally applies as well to claim 13.

Regarding claim 15, Torikka-Karabini disclose adapted to be installed in a satellite terminal coupled to said base station and to a satellite supplied by said traffic source

(see e.g. col. 3 lines 3-6). The same motivation utilized in the combination of claim 20, equally applies as well to claim 15.

Regarding claim 17, Torikka-Karabini discloses further including a satellite access network (see e.g. col. 1 line 42-43). The same motivation utilized in the combination of claim 20, equally applies as well to claim 17.

Regarding claim 18, the limitation of this claim has already been addressed (see claim 20 above).

Regarding claim 19, the limitations of this claim have already been addressed (see claim 20 above).

Regarding claim 21, Torikka-Karabini disclose use of a device and an installation each node being a radio network controller and each base station being a Node B (see e.g. col. 1 lines 20-31). The same motivation utilized in the combination of claim 20, equally applies as well to claim 21.

(10) Response to Argument

Appellant's arguments with respect to claim 1 have been considered but are not persuasive.

A) A data management device with control means configured to be coupled to a traffic source and to said interface and configured to take local control, on command, of at least a portion of said resources of said base station, instead of said terrestrial node, to enable transfer of data between said traffic source and said base station.

In response,

A) Appellant is reminded that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). This is important as Appellant argues, first paragraph on page 12 of brief, that the 'data management device' is a separate device from the RNC. However, this argument is invalid as no such recitation appear anywhere in claim 1. Secondly, the phrase "control means configured to be coupled to a traffic source and to said interface and configured to take local control, on command, of at least a portion of said resources of said base station, instead of said terrestrial node, to enable transfer of data between said traffic source and said base station" is found to be a recitation of the intended use of the claimed invention. In order for it to be given patentable weight this feature must result in

a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. However, if the prior art structure is capable of performing the intended use, then it meets the claim. As for what the prior art discloses, Torikka teaches comprehensive system for telecommunication that provides data management device with a control unit. The terminology used to refer to the data management device of the prior art may be different than that which is used in the instant application. Nonetheless, Torikka discloses Radio Network Control (RNC) also known as Base Station Controller (BSC), which includes control unit for determining the system requirement for the allocation of resources due to a change in the functionality of the system resources (see e.g. fig. 1 and col. 9 lines 32-54). Therefore, the applied prior art of record clearly discloses data management device capable of performing the functionality of the instant claimed data management device.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Mohamed Ibrahim/

/William C. Vaughn, Jr./

Supervisory Patent Examiner, Art Unit 2444

Conferees:

/William C. Vaughn, Jr./

Supervisory Patent Examiner, Art Unit 2444

/Paul H Kang/
Primary Examiner, Art Unit 2444